IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 546 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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CHHOGALAL GANGARAMJI PUROHIT

Versus

MK DAS OR SUCCESSOR

Appearance:

1. Special Civil Application No. 546 of 2001

MR AJ SHASTRI for Petitioner No. 1

MS BR GAJJAR, AGP for Respondent No. 1,2

MR MC BAROT for Respondent No. 3

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 14/08/2001

ORAL JUDGEMENT

1. Rule. Service of rule is waived by Ms.B.R.Gajjar, learned AGP for the respondents No.1 & 2 and Mr.M.C.Barot, learned advocate for the respondent No.3. With the consent of the parties, the matter is

taken up for final disposal.

2. The petitioner has filed this petition praying for an appropriate writ, order or direction quashing and setting aside the impugned order dated 5th May, 2001, passed by the District Magistrate, Banaskantha at Palanpur - respondent No.1 herein as well as the order dated 29th November, 2000, passed by the Sub-Divisional Magistrate, Palanpur - respondent No.2 herein and further prayed that the respondents authority be directed not to disturb the petitioner in any manner in running the lawful activity of hotel business in the premises.

3. The learned advocate for the petitioner has raised several contentions but mainly contended that respondent No.3 in his initial application dated 19.1.99 has not alleged anything about so-called illegalities. He has further submitted that these alleged illegalities are said to have happened only after purchase of premises by respondent No.3 and prior thereto since 1954 there was no such grievance against petitioner nor any complaint was registered of this kind. He has further submitted that the present complaint is clearly an after thought and out of business rivalry. It has been further submitted that pursuant to remand order passed by District Magistrate, police inquiry was also conducted but in that inquiry also no adverse report was submitted. It was further submitted that the statements which are relied of persons, those persons have not been put to cross-examination. It was further submitted that the authorities have also visited and checked the hotel premises several times in a routine manner but no complaint of this nature has been filed in this behalf. It was further submitted that considering the circumstances stated hereinabove when except respondent No.3's objections there was no complaint registered and no adverse police opinion were recorded and therefore the impugned orders are required to be set aside. It has been further stated that the respondent No.3 has also not been able to satisfy and substantiate his allegations made against petitioner and at present he has no grievance against the petitioner.

4. Learned advocate for the respondent No.3 has categorically stated so before this Court.

5. I have heard Mr.A.J.Shastri, learned advocate for the petitioner, Ms.B.R.Gajjar, learned AGP for the respondents No.1 and 2 and Mr.M.C.Barot, learned advocate for the respondent No.3.

6. On behalf of respondent No.1 Shri M.K.Das, District Magistrate, Banaskantha, has filed affidavit dated 2nd June, 2001. It has been contended that the facts and circumstances of the case the continuation or renewal of licence of the said hotel would be unreasonable, unjust and improper and, therefore, the order passed by the respondents are legal and valid. The petitioner has also filed rejoinder in this behalf.

7. When the matter was placed for hearing, without adjudicating the matter on the merits of the matter, if following order is passed that may serve the ends of justice.

8. In view of this peculiar facts and circumstances of the case, this Court did not find any substance or any allegation against the petitioner and therefore I pass the following order:

The impugned order passed by the respondent authorities dated 5.1.2001 at Annexure `G' to the petition as well as the order dated 29.11.2000 at Annexure `E' to the petition are hereby quashed and set aside. The respondents authorities are directed to renew the licence of the petitioner for running the hotel in question in accordance with law after taking into consideration all relevant factors in this behalf. The authorities will not be influenced by the previous orders and previous objections raised by respondent No.3 and the petitioner be allowed to carry on lawful business of running hotel business in the premises in question.

9. In view of the aforesaid directions, this petition stands disposed of accordingly with no order as to costs. Rule is made absolute to the aforesaid extent.

(K.M. Mehta, J.)

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